

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JASPER WASHINGTON,

Plaintiff,

v.

RANDALL E. BRITTON, et al.,

Defendants.

No. 09-MC-123

MEMORANDUM/ORDER

Plaintiff has filed an “Application for Leave to Proceed In Forma Pauperis on Independent Action” and an Independent Action seeking relief from alleged fraud on the court pursuant to *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944). In his application, plaintiff asserts that the prosecutor in his state criminal trial committed fraud on the Philadelphia County Court of Common Pleas by “knowingly and recklessly participat[ing] in presenting false testimony” and by “ignor[ing] the results” of DNA tests. Indep. Action, at 2-3.

The Third Circuit has recently summarily affirmed the dismissal of an attempt to use *Hazel-Atlas* to overturn a state conviction on the ground that it is “unaware of any power that a federal court has to overturn a state criminal conviction obtained by fraud, outside of power authorized by statute; i.e. through a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254.” *Wells v. King*, No. 09-1842, 2009 WL 2386664, at *1 (3d Cir. Aug. 5, 2009) (emphasis omitted); *see also Williams v. Vaughn*, No. 02-cv-1077, 2005

WL 3348863, at *2 (E.D. Pa. Dec. 8, 2005) (holding that a “district court cannot reconsider state court proceedings under *Hazel-Atlas*” when the plaintiff “only asserts that there was fraud upon the state court”). Plaintiff’s action, which only alleges that there was fraud on Philadelphia County Court of Common Pleas, may therefore not proceed.

AND NOW, this 22 day of September, 2009, **IT IS HEREBY ORDERED** that plaintiff’s independent action is **DISMISSED** and plaintiff’s application for leave to proceed *in forma pauperis* is **DENIED**.

Louis H. Pollak
Pollak, J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARK JACKSON,
Plaintiff,

Civil Action No. 05-4988

v.

ROHM & HAAS COMPANY, et al.,
Defendants.

ORDER

AND NOW, this 30th day of October, 2008, upon review of Plaintiff's Objections (Docket Nos.187 and 191) to Magistrate Judge Angell's Order of September 19, 2008 (Docket No. 188), Plaintiff's letter of October 17, 2008 requesting a "status quo" order, and the in-court conference of October 30, 2008, it is here by ORDERED that:

1. Plaintiff's objections are OVERRULED and Judge Angell's order is CONFIRMED;
2. Plaintiff's request for an order "maintaining the status quo" (Pl. Letter of October 17, 2008) is DENIED as failing to meet the requirements of a temporary restraining order under Rule 65(b).

BY THE COURT:

/s/ Louis H. Pollak, J.
Pollak, J.